

No Benefit Tourists: A Single Market without Free Movement?

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Among EU governments and political parties, there is a rising tendency to claim that intra-EU migration puts a serious strain on the sustainability of welfare provision. Several countries are enforcing measures aimed at limiting the access of other EU citizens to unemployment schemes, health care assistance, etc., and also calling on the EU to tighten rules to end "benefit tourism". However, Commission reports have shown how minimal the impact of "benefit tourism" is on welfare scheme budgets. Does this political attitude, which exposes the growing concerns of the traditional parties about the competition of right wing populism, risk adding further barriers to labour mobility and to the portability of rights, especially in a time of widening gaps in employment differentials? How much of the welfare financing difficulties do the intra-EU flows account for? Does this identitarian rhetoric add up to a race to the bottom in social provisions? Should a European response, in defence of the single market, aim to establish a level playing field rather than accommodating social competition?

A Citizen's Controversy with

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Jackie Morin began by giving a factual outline of the free movement of citizens within the EU. **You can move to work as an employee in another state, known as the free movement of workers, which is set down in Article 45 of the Treaty.** You can move to establish a company in another Member State and work as self employed, established in Article 49. Or you can move as a posted worker if your company wins a contract for a service in another state, set down in Article 56. These three situations are different in terms of legal statutes and have different implications so **Jackie Morin** focused on the free movement of workers as this is most relevant to the debate at hand. EU citizens can also move to live or reside in a different state, e.g., to get a pension or because they consider it a nice place to live. This is covered by Article 21.



The free movement of workers was introduced from the beginning of the union, with transitional measures at first. It was implemented in 1968 by EU six and now covers 27 member states. A transitional period of seven years

is in place for Croatia; therefore Croatian workers do not enjoy free movement in 13 countries. There is also free movement between the EU and Norway, Iceland and Liechtenstein, with some quotas for Liechtenstein. Furthermore, the EU has an agreement on free movement with Switzerland which was subject to a referendum recently.

Regarding the free movement for citizens, **any EU citizen can go to another member state for a**

period of three months without any conditions or formalities. If they wish to stay longer, there are no conditions for workers. However for non active citizens the right to reside may be subject to having sufficient resources. Member States can set a test to ensure that non actives staying longer than three months have sufficient resources and will not become a burden to the state. After 5 years an EU citizen is entitled to permanent residency which is covered by Directive 2004/38 and Article 21 of the Treaty.

If we look at how these rights are applied in practice, we see that today **3% of EU citizens reside in another Member State.** There are also 1.2 million cross border workers who work in one Member State and reside in another. First of all, this figure has greatly increased over the last decade: from 1.6% in 2004 to around 3% today. This quite significant increase is linked to enlargement; three quarters of the increase is accounted for by the EU10 and EU2 enlargements. Secondly, **3% is less than the percentage of Third Country nationals within the EU, which stands at 4%.** Third country nationals are subject to work permit schemes yet despite this limitation there are a larger number of them in the EU than EU citizens living in other Member States.

An interesting statistic is that when EU citizens are asked if they are interested in moving to another Member State, 20% say they are interested, 1.2% say they have a firm intention to move within a year and 0.2% actually move. Therefore, the ratio between expectation and realisation is 1:100; out of 100 who are interested, only one will move in the end. **Jackie Morin** presented a graph comparing the mobility rate of the USA which stands at 2.4% per year and the mobility rate of the EU which is 0.2%. This is a

huge difference, and of course the context is different, but **data seem to indicate that problems lie more with obstacles than with too much mobility**.

If we look at where EU migrants have been going over the last ten years we see the usual candidates: Luxembourg, Ireland, Cyprus and Belgium. It should be noted, however, that the most significant receiving countries are the four big countries of Spain, Italy, UK and Germany, and for most EU countries the percentage of intra-EU migrants is below 2%. Looking at migrants' countries of origin over the last ten years an income effect can be seen. We see migration from Romania and Bulgaria which is clearly driven by a search for better working and living conditions elsewhere. The more economically successful Eastern countries have less emigration than their neighbours. Over the last few years there has been much debate about the perception of mobility; mostly in the UK press but also elsewhere, and responses in the Romanian press, for example. So there has been **growing discussion about the intentions of EU migrants and the consequences of intra-EU migration and this discussion has polarised East and West within the EU**.

Jackie Morin next presented information about conditions for access to social assistance and related figures. On social assistance, which is linked to poverty, Directive 2004/38 is quite clear: there is no obligation to provide social assistance to non active migrants during their first 3 months of residence and after this time there is equal treatment in terms of provision, except in the case of unreasonable burden where the state can decide to end the right of residence. Social security is covered by social security regulation; however the different social security systems in Europe fall

under national competencies so social security cooperation only links these systems. The main question in regards to the regulation of social security is, which country should pay social security if a citizen moves to another state? To make it simple, the new country that takes care of social security for the worker from day one, and at the same time the worker contributes to social security and taxes in the country. For non active migrants the country of residence is responsible for social security but only after the non active migrant has passed a habitual residence test. In other words, the person needs to demonstrate that he or she no longer has any links with the previous country and has completely moved to the new country.

So is social security a pull factor for workers? When workers are asked, the answer is no.

They say they move to find a job, for better career opportunities and to get a better salary, according to a 2013 Eurobarometer survey. There was a huge decrease between 2008 and 2012 in immigration to Spain, Ireland and Italy, and an increase to Germany, which appears to show that jobs are what attract people to move. If we look at the impact of the economic crisis we see that **mobility decreased in the period between 2008 and 2011, demonstrating that migration is linked to job opportunities**. If migration was linked to benefits then we should have seen an increase in mobility in this period.

If the problem is not workers, is it therefore the movement of non active persons attracted by social security systems? First of all, EU migrants are more active than nationals, with an activity rate of 78%, compared to a rate of 72% for nationals, and EU migrant employment rates are much higher. Non active migrants represent only between 0.7% and 1% of the total EU population.

The vast majority, 80%, of non actives are relatives of active persons, meaning that they depend on workers and not the national system of the host state. Therefore, only 20% of the 0.7% of non active persons are purely dependant on their own resources or the local system. In order to ascertain if EU migrants are greater beneficiaries of social security systems than nationals, **Jackie Morin** referred to a UK study from the Department for Work and Pensions in 2013 which shows that **EU mobile citizens claim 2% of benefits while comprising 4.6% of the working population.**

In order to investigate whether the negative perception of intra-EU migration is based on the possibility of fraud, two monitoring tools, an administration group which deals with free movement and an administration group which deals with social security, were asked to search for cases of fraud, abuse and errors, both in terms of right to residence (for example sham marriages) and in terms of social security fraud. In both cases they were unable to find any substantial reports of fraud by EU migrants from the Member States themselves, only anecdotal evidence.

Is this negative perception based on economic cost? We see that in fact mobility has a positive impact on receiving countries. In macroeconomic terms, the GDP of EU 15 has increased by 1% since the last enlargement there is no evidence relating specific costs to mobility. An issue raised in this debate, which has been introduced into recent discussions the mayors of large cities, is that **we need to focus more on integration and on the impact of mobility, not only in terms of citizens' rights, but also the impact on receiving countries in terms of ensuring good integration.** The social fund is a powerful tool here because 20% of it can be dedicated to social cohesion such

as integration schemes like language training for migrants.

The debate will decide whether we should be concerned or not, but what is a worry is the gap between perceptions and the facts; particularly in light of David Cameron's recent comments, and the referendum in Switzerland. It is clear that perceptions have an impact and may put freedom of movement at risk. However, on a more positive note, **when asked what they considered to be the EU's greatest achievement, 56% of citizens said free movement.** Another positive aspect is that this debate has drawn attention to the question of integration and the capacity of Member States to integrate migrants well.

Yves Pascouau took the floor by answering his co-speakers question and stating that, yes, we should be concerned. If we look at current trends and tendencies we must ask ourselves whether some day in the future we will have a single market without free movement. This seems to be the will of some national politicians and some EU citizens. If we look at the freedom of movement of workers and EU citizens over time, it is clear that freedom of movement has always been subject to criticism. However, up until recently, attacks against freedom of movement were limited to case



law of the Court of Justice of the European Union and specific issues resulting from jurisprudence of the court. What we see over the last five years is that attacks are becoming more systematic and going beyond the limited

cycle of EU specialists and the issue of limiting or restricting freedom of movement has spread to the national levels, the media in Member States and to EU citizens. Today there are highly educated people who ten years ago did not think for one minute that freedom of movement should be restricted who are now starting to agree with the British position.

So **the discourse about restricting freedom of movement has spread to a wider audience and the freedom of movement of EU citizens is now increasingly perceived in negative terms.** The expulsion of EU citizens of Roma ethnicity from France in 2010 exemplifies how some EU citizens are being viewed as threats. The issue was raised in the Netherlands as well in 2011 when the expulsion of unemployed Polish citizens was proposed. **Yves Pascouau** commented that the perception of some EU citizens as a threat is spreading to the extent that today they are portrayed in the press, particularly the UK press, as cheaters, abusers and ‘benefit scroungers’. **EU citizens moving from one country to another are being referred to as ‘migrants’, no longer as EU citizens,** and this leads to them being treated as migrants; expulsion, reduced rights, etc. All of these factors together lead to a situation where the positive image of an EU citizen has changed to a negative one.

What is even more striking today is that, as exemplified by the first speaker, **there is no evidence that EU citizens exercising their right of freedom of movement are a burden to our social system.** On the contrary, they are work-related movers. What is extraordinary is that at least three EU Commissioners, Lázló Onder, Viviane Reding and to a certain extent Cecilia Malström are continually providing evidence that freedom of movement is not a question of abuse

and is in fact positive. Despite the efforts of the Commissioners and their staff, and a significant body of studies and research, the recurrent negative picture emerges again and again.

It could be said this is an overly gloomy portrayal; pressure on the freedom of movement has reduced since 1 January 2014 and the UK may be toning down their statements. However, if we look to Switzerland we see that caution is still needed. Of course, Swiss situation is not the same, but in **Yves Pascouau’s** estimation, the case has sounded two important warnings for the EU. First of all, if a similar referendum were held in any EU Member State, the results might be the same as in Switzerland. Secondly, if we consider the breakdown of voting in Switzerland, those who voted for the restriction of freedom of movement are, in general, residents of the countryside and agricultural areas of Switzerland, who are not directly confronted with the effects of migration. The majority of those who voted to maintain the existing freedom of movement were urban residents, which shows a clear division between these two groups in Swiss society.

If we compare this situation with the EU, we see that there is a similar division between movers and non movers. 2.8% of the EU population resides in another state, and if we add those who left their home country and returned, the figure reaches almost 10%. **Yves Pascouau** pointed out that the audience members present comprise part of this group who have moved to another country and are aware of the merits of freedom of movement. However, on the other side there are those that have not taken advantage of freedom of movement and therefore, do not understand its purpose. **Who is responsible for telling people that freedom of movement is an asset?** The Commissioners are doing so. Those working in the ‘EU bubble’ are

convinced of the merits while citizens of their home countries are more dubious. Are national politicians doing their job? Are they the link between what is achieved and proposed at an EU level, and what is implemented?

Returning to the example of Switzerland, **Yves Pascouau** was struck by the fact that the day after the vote, former French Prime Minister Francois Fillon commented that the Swiss response was perfectly normal and that freedom of movement should be restricted. The EU Commissioners can keep speaking out in favour of freedom of movement but while a significant group of national politicians are against it, their words will fall on deaf ears. Citizens are more familiar with their national politicians than EU Commissioners so they will take what national politicians say more to heart. **We need to ensure that support is not just voiced in the EU institutions; politicians need to defend this principle which forms the basis of what the EU stands for and where it aims to go.** Over the last fifty years, freedom of movement has stood for the pursuit of ever more freedom and it needs to be protected. If we agree to row back on it, we are agreeing to limit our freedom.

Given what can be seen in the media, **Yves Pascouau** asserted that he does not believe national politicians are doing their job with regards this issue. In conclusion, we should be concerned and, although pressure has been alleviated recently, **there is still a risk that some Member States will continue to repeatedly attack freedom of movement** until one day a coalition of states will form with enough pressure to force the Commission to present proposals to amend Directive 2004/38.

DISCUSSION

The speakers were confronted with the proposal that Brussels does not listen to the citizen concerns which underpin this debate. An audience member raised the fact that since 2004 there has been an imbalance between Eastern and Western countries which has created a greater incentive to move. This participant also questioned the nature of the debate itself, which seems to conflate many issues, and asked what happened to the letter from the four ministers. Speakers were questioned on how free movement in the EU compares with free movement in the USA. A participant sought clarification on the cited budget of 20% on integration, and asked what the remaining 80% is spent on. An audience member raised the elephant-in-the-room issue of the threat to social security systems posed by aging demographics and suggested considering the differences between social security systems in order to better understand the current mood of protectionism.

Jackie Morin disagreed with the assertion that Brussels does not listen. In the debate it seems that many people attack free movement as a way of attacking the EU itself. Regarding the letter from four national ministers, it was sent to three Commissioners and the President last April and raised the issues of fraud, integration, cost and social security. After this a series of debates were held and meetings on a technical level, and a council of ministers of the interior and the employment council discussed the issues. In the councils there was much more agreement than can be found in the letter and the media in general and the formal response was seen as satisfactory. As regards free movement, it must be kept in mind that at the founding of the EU, at least 4 out of the 6 original members were against including freedom of movement of workers as one of the four freedoms so it has not been universally accepted from the beginning and there is still a certain resistance. The misunderstanding arising

from the term migrant was raised and it is true that even in the letter there was a conflation of EU citizens and Third Country nationals. The term 'migrant' is used in the treaty so this is an issue of terminology but should be changed.

Jackie Morin reiterated that the rate of mobility in the USA is 2.4%, compared to 0.2% in the EU and pointed out that the same administrative and language barriers are not present in the USA as in the EU. Language is one of the biggest obstacles to movement in Europe and acquisition of the host country's language is a determining factor in successful migrant integration.

Jackie Morin clarified that the ESF funds employment policies such as training for job seekers, labour market policies, etc., and the main bulk of its efforts are directed at this. 20% of the funds are dedicated to social inclusion and combating poverty and a portion of this is spent on the integration of workers.

Is the limitation of free movement possible in the EU today? The benefits of free movement are macroeconomic and mobility results in a general rise in GDP. According to a recent survey by DG ENTERPRISE, 40% of employers say they have trouble finding staff with the appropriate skills, despite the high unemployment rate in Europe. In twenty years the active population will have decreased by 18 million due to an aging population. Today, in Austria and Germany there is an unemployment rate of 5% and a skills shortage in some sectors. So is limiting free movement an option, considering the huge disturbances that would result? Leaving aside the freedom aspect and considering only the economic side, it seems illogical to limit our economic capabilities in such a way.

Yves Pascouau agreed that the debate comes down to people's perceptions and citizens are blaming the EU for high unemployment even though this is a national competence, as are social systems. Irrationality, perceptions and insecurity in the face of globalisation is a major factor and many people are tempted to retreat to their national states. It is clear that the Swiss referendum a national issue, and politicians should refrain from extreme reactions to the outcome of a legal referendum. However, there have been extreme reactions from the anti-migration, anti-EU parties in support of the result and yet no one has voiced an opposing view.

Is there a big debate about immigration in the EU?

Yves Pascouau stated that the answer is yes and no. This debate is divided between two issues: intra-EU mobility of EU citizens and migration. We must also keep in mind that the issue of freedom of movement of workers was previously under EPSCO competence and has now shifted to the Justice and Home Affairs Council which has a different approach to the issue. In terms of migration - the admission, stay and movement of Third Country nationals within the EU - we are mainly dealing with border management. Cecilia Malstöm's attempts to push legal migration have been quashed in light of the financial crisis.

On a terminological point, DG HOME uses the term 'irregular migration', despite the use of 'illegal migration' in the Treaty; therefore, terminology does not necessarily have to match the Treaty text.

Finally, whether or not the Commission is hearing and listening to what is said, **Yves Pascouau** is also struck by the fact that those working in EU affairs and the institutions are speaking a specific language that is not understood outside. There is a

unique way of thinking and functioning which is to a certain extent, incompatible with citizens in the Member States.

A participant raised the issue of unequal distribution, stating that some groups have lost out, in terms of the jobs market and access to public services, as a result of free movement. Another issue raised is that of consent to EU policies and the issue of who decides these policies for the whole EU. It was pointed out that the Swiss referendum was about immigration in general, not just EU immigrants and it was suggested that the urban-rural divide is due to social dumping in cities where employers benefit greatly from lower wages for employees. Another member of the audience commented that EU-mobile citizens need more support from local authorities and clearer explanations of the law. Clarification of the rules regarding mobile job seekers was sought from Mr Morin. A participant asked if the Commission had figures to indicate that low skilled workers don't push out local workers or decrease wages and asked if there was data available regarding young citizens' opinions on free movement. The issue of differences in perceptions of high skilled workers versus low skilled workers was raised. Mr Morin was asked to clarify the distinction between social assistance and social security and asked to define an unreasonable burden.

Yves Pascouau acknowledged that the Swiss referendum was about immigration from both EU and non-EU migrants, and highlighted that despite there being two other amendments put to vote in the referendum, all the focus was on the question on immigration.

He also asked his co-speaker to clarify what he meant when he said that the EU-Swiss agreement could be renegotiated. Finally **Yves Pascouau** commented that before the crisis the idea of EU citizens falling into destitution in another state was

unthinkable and yet that is the situation today. The results of this can be seen in citizens being sent back to their country because they are a 'burden'.

Jackie Morin began by answering some of the more specific questions addressed to him. Social security relates to risk factors: age, sickness, family, disability. Social assistance is not linked to a risk and relates to low income. There is a positive list of social security and whatever falls outside this is considered social assistance. For more information on what constitutes an unreasonable burden, the recent Brey Ruling should be consulted.

As regards rights for job seekers; job seekers who want to search for a job in another Member State have the right to reside there for three months as is the general rules and have the right to stay another three months to make six months in total without an obligation to demonstrate sufficient resources. After this Member States can authorise a longer stay if there is a high probability of the citizen finding employment. If a job seeker was already claiming benefits in his or her home country, he or she can export these to the new country and continue to receive them. If the job seeker moves completely to the new country, then he or she falls under the rules of the new country. There is a proposal to update this in June 2014.

On the question of support among young people, **Jackie Morin** does not have an age breakdown for the figure of 56% support for free movement. However, the figure of 20% of the EU population who were interested in moving to another state rises to over 50% among young people. The issue of skills is a very valid point. On the one hand there is competition for talent and high skills and on the other the problems of low skilled workers are highlighted and focused on. This is the idea

behind limiting freedom of movement: to prevent poorer people and low skilled people from moving.

Jackie Morin expressed agreement with the point about impact on the public service. This also relates to issue of social security benefits and cost. We need to reflect on how social security is organised. At the moment there is coordination and countries have total control of their own systems. The result is that individual states have to pay for their own citizens who move, or for citizens from other EU states. According to **Jackie Morin**, a ‘Europeanisation’ of the system - if unemployment benefit, for example, was organised on a European instead of national basis - it would change the nature of the debate on movement. He also clarified that, in accordance with the result of the referendum, Switzerland has three years to integrate it into its system which will probably involve a degree of adaption.

CITIZEN'S CONTROVERSIES

The *Citizen's Controversies** series of lunchtime debates seek to address one of Europe's most vital tasks: rekindling the citizen's interest in EU matters. Much has been said about the 'democratic deficit', which is now felt to seriously hamper EU progress. This deficit, however, does not stem from undemocratic EU institutions, but from a lack of citizen participation in EU democratic life. Less an institutional deficit, therefore, than a citizenship deficit. The Citizen's Controversies strive to encourage citizens' ownership of the pan-European political debate by securing fair and contrasting views on fundamental EU issues. Each debate confronts different points of view on a given topic to point out options and trade-offs and highlight the political stakes present in each necessary compromise. The objective, in sum, is to enhance the perception of a 'European common good', which is more than the sum of national interests.

* The *Citizen's Controversies* are held under the Chatham House Rule. A report is then published after agreement with the speakers.

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